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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/723,929	11/25/2003	David Tanner	50325-0848	9766

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EXAMINER	
GUYTON, PHILIP A	

ART UNIT	PAPER NUMBER
2113	

MAIL DATE	DELIVERY MODE
03/17/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/723,929	TANNER, DAVID	
	Examiner	Art Unit	
	PHILIP GUYTON	2113	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *27 December 2007*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-4,7-16,18-24,27-32 and 35-38* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-4,7-16,18-24,27-32 and 35-38* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 29 November 2007 has been entered.

Claim Objections

2. Claim 13 is objected to because of the following informalities: the phrase "wherein the data aggregation engine detects modifications to the network and automatically modifying the queries to match the modifications" is grammatically incorrect. Appropriate correction is required.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

> Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 13-16 and 18-20 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Independent claim 13 recites an apparatus for managing a plurality of network devices comprising a data aggregation

engine and a sequence engine. Since there exists no structure or physical medium on which the engines reside, they are merely a computer program or listing, which is non-statutory subject matter under 35 U.S.C. 101.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 1-4, 7-16, 18-24, 27-32, and 35-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,874,099 to Balasubramanian et al. (hereinafter Balasubramanian) in view of U.S. Patent No. 6,970,873 to Fu et al. (hereinafter Fu).

With respect to claim 1, Balasubramanian discloses a method for diagnosing and repairing network devices on a network based on scenarios (abstract), comprising:

aggregating responses to a selectable list of queries (column 5, lines 21-24) for a plurality of scenarios on the network from a plurality of applications on the network devices (column 4, lines 30-40 and lines 54-56, column 7, lines 5-12); and

detecting modifications to the network and automatically modifying the queries to match the modifications (column 2, lines 38-40, column 4, lines 57-62, and column 8, lines 61-67);

automatically evaluating the responses to formulate corrective actions to address the scenarios for the applications (column 4, lines 40-54, column 7, lines 25-34);

wherein the step of aggregating responses further comprises

filtering the responses according to a template; and

organizing the responses in a format that conforms to a format of the template (column 2, line 64-column 3, line 2, column 7, lines 5-11 and lines 11-34).

However, Balasubramanian does not disclose expressly wherein the step of aggregating responses further comprises:

filtering the responses according to a predetermined template of a plurality of templates; and

organizing the responses in a format that conforms to a format of the specific predetermined template.

Fu teaches a method of adding an entry to an LDAP directory tree (abstract), wherein data to be added is filtered according to a specific template of a plurality of templates (column 3, lines 24-38 and column 6, lines 35-40).

At the time the invention was made, it would have been obvious to a person of ordinary skill in the art to modify Balasubramanian by using a predetermined template from a plurality of template, as taught by Fu. A person of ordinary skill in the art would have been motivated to do so because the use of a predetermined template allows for greater organization and precise searching (Fu – column 3, lines 53-65). It also serves to ensure the LDAP directory structure is remains valid (Fu – column 3, line 66-column

4, line 5). This would have been highly desirable in Balasubramanian, where searching of data for analysis occurs (column 7, lines 25-34). Thus, it would have been obvious to a person of ordinary skill in the art to combine Balasubramanian with Fu to acheive the invention as recited in claim 1.

With respect to claim 2, Balasubramanian discloses presenting options to an operator of the network to invoke the corrective actions (column 5, lines 28-29, column 6, lines 19-29).

With respect to claim 3, Balasubramanian discloses presenting the responses to the operator of the network (column 6, lines 3-14, column 7, lines 11-13).

With respect to claim 4, Balasubramanian discloses issuing the queries to the applications in an automatically established sequence (column 2, lines 53-64).

With respect to claim 7, Balasubramanian discloses presenting the operator of the network an option to customize the queries, the plurality of the scenarios, and the corrective actions (column 4, lines 43-50, column 5, lines 25-29, column 6, lines 15-40).

With respect to claim 8, Balasubramanian discloses wherein each of the queries corresponds to one of the plurality of scenarios (column 2, lines 53-64).

With respect to claim 9, Balasubramanian discloses a method for diagnosing and repairing network devices on a network based on scenarios (abstract), comprising:

aggregating responses to a selectable list of queries (column 5, lines 21-24) for a plurality of scenarios on the network from a plurality of applications on the network devices (column 4, lines 30-40 and lines 54-56, column 7, lines 5-12), wherein the queries are issued in an automatically established sequence (column 2, lines 53-64);

detecting modifications to the network and automatically modifying the queries to match the modifications (column 2, lines 38-40, column 4, lines 57-62, and column 8, lines 61-67);

automatically evaluating the responses to formulate corrective actions to address the scenarios for the applications (column 4, lines 40-54, column 7, lines 25-34); and

presenting options to an operator of the network to invoke the corrective actions (column 5, lines 28-29, column 6, lines 19-29).

With respect to claim 10, Balasubramanian discloses detecting modifications to the network and automatically modifying the queries to match the modifications (column 4, lines 57-62, column 8, lines 61-67).

With respect to claim 11, Balasubramanian discloses presenting the operator of the network an option to customize the queries, the plurality of the scenarios, and the corrective actions (column 4, lines 43-50, column 5, lines 25-29, column 6, lines 15-40).

With respect to claim 12, Balasubramanian discloses filtering the responses according to a template; and organizing the responses in a format that conforms to a format of the template (column 2, line 64-column 3, line 2, column 7, lines 5-11 and lines 11-34).

With respect to claim 13, Balasubramanian discloses an apparatus for managing a plurality of network devices on a network (abstract), comprising:

a data aggregation engine that aggregates responses to a selectable list of queries (column 5, lines 21-24) for a plurality of scenarios on the network from a

plurality of applications on the network devices (column 4, lines 30-40 and lines 54-56, column 7, lines 5-12); and

a sequence engine that automatically evaluates the responses to formulate corrective actions to address the scenarios for the applications (column 4, lines 40-54, column 7, lines 25-34);

wherein the data aggregation engine detects modifications to the network and automatically modifying the queries to match the modifications (column 2, lines 38-40, column 4, lines 57-62, and column 8, lines 61-67);

With respect to claim 14, Balasubramanian discloses a user interface, coupled to the data aggregation engine, that presents options to an operator of the network to invoke the corrective actions (column 5, lines 28-29, column 6, lines 19-29).

With respect to claim 15, Balasubramanian discloses wherein the user interface, further coupled to an aggregation display engine, presents the responses to the operator of the network (column 6, lines 3-14, column 7, lines 11-13).

With respect to claim 16, Balasubramanian discloses wherein the sequence engine automatically establishes a sequence to issue the queries to the applications (column 2, lines 53-64).

With respect to claim 18, Balasubramanian discloses wherein the data aggregation engine further filters the responses according to a template; and organizes the responses in a format that conforms to a format of the template (column 2, line 64-column 3, line 2, column 7, lines 5-11 and lines 11-34).

With respect to claim 19, Balasubramanian discloses wherein the user interface further presents the operator of the network an option to customize the queries, the plurality of the scenarios, and the corrective actions (column 4, lines 43-50, column 5, lines 25-29, column 6, lines 15-40).

With respect to claim 20, Balasubramanian discloses wherein each of the queries corresponds to one of the plurality of scenarios (column 2, lines 53-64).

Claims 21-24, 27, and 28 recite a computer-readable medium for performing the method of claim 1-4, 7, and 8, and are rejected under the same rationale.

Claims 29-32, 35, and 36 recite an apparatus comprising means for performing the method of claims 1-4, 7, and 8, and are rejected under the same rationale.

With respect to claim 37, modified Balasubramanian discloses generating the predetermined template according to one or more of an operator's specifications, patterns of past retrieved data, or configurations of the network (column 7, lines 22-34 and Fu – column 3, lines 45-59).

With respect to claim 38, Balasubramanian discloses wherein the step of aggregating responses further comprises retrieving specific types of data from distinct applications of differing network devices (column 4, line 65-column 5, line 6 and column 8, lines 3-11).

Response to Arguments

6. Applicant's arguments filed 29 November 2007 have been fully considered but they are not persuasive.

Applicant asserts Balasubramanian does not disclose aggregating responses, as recited in claim 1, and instead only teaches logging test data for future analysis. The examiner respectfully disagrees. Balasubramanian clearly teaches the claimed aggregating responses (column 4, lines 30-40 and lines 54-56, and column 7, lines 5-12). Applicant is reminded that although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Applicant additionally argues that Balasubramanian does not disclose "detecting modifications to the network and automatically modifying the queries to match the modifications," and alternatively only teaches wherein the system is modifiable. The examiner respectfully disagrees. As stated in the background section of Balasubramanian:

> "Each suite presents its own interface to the user. No integrated interfaces are known to exist that would allow a user to simultaneously access both suites of monitoring programs. If a new component is added to the network, a new monitoring program and new user interface would be needed.
>
> In addition to the above limitations, existing monitoring products are difficult to modify when changes are made to the devices or applications being monitored."
>
> (column 2, lines 32-40)

Thus, unlike prior art systems, Balasubramanian evidently desires a monitoring system that is easily modified when monitored devices or applications receive changes. Balasubramanian also describes wherein monitoring programs are updated or added when changes are made to monitored devices (column 4, lines 58-62 and column 8, lines 61-67). These changes are inherently reflected in the Administrative Graphical User Interface, where the claimed selectable list of queries are represented (column 5,

lines 14-29). In other words, when a modification is made to the modular monitoring programs, it is inherently detected by the system, which updates the queries displayed in the interactive Admin GUI.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PHILIP GUYTON whose telephone number is (571) 272-3807. The examiner can normally be reached on M-F 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Beausoliel can be reached on (571) 272-3645. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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3/7/08

/Robert W. Beausoliel, Jr./
Supervisory Patent Examiner, Art Unit 2113